

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-4568

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TERRY L. DOWDELL,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. James H. Michael, Jr., Senior District Judge. (CR-02-107)

Submitted: November 17, 2005

Decided: December 16, 2005

Before WILKINS, Chief Judge, LUTTIG, Circuit Judge, and Walter D. KELLEY, Jr., United States District Judge for the Eastern District of Virginia, sitting by designation.

Affirmed by unpublished per curiam opinion.

Frederick T. Hebllich, Jr., FREDERICK T. HEBLICH, JR., P.C., Charlottesville, Virginia, for Appellant. John L. Brownlee, United States Attorney, Jean B. Hudson, OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia; Ellen R. Meltzer, Joel E. Leising, Attorneys, Fraud Section, Criminal Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Terry L. Dowdell appeals a 180-month prison sentence imposed by the district court after Dowdell pleaded guilty to two charges arising from his operation of an international Ponzi scheme. Dowdell claims that the district court erred by failing to sentence him in accordance with sentencing provisions contained in an earlier plea agreement between Dowdell and the Government. Dowdell argues that these provisions became binding on the district court when it accepted the original plea agreement. See Fed. R. Crim. P. 11(c)(1)(C). This argument is meritless. The original plea agreement and Dowdell's plea colloquy with the district court made clear that the sentencing provisions in the agreement were merely recommendations that did not bind the court in determining Dowdell's sentence. See Fed. R. Crim. P. 11(c)(1)(B); United States v. Gordon, 61 F.3d 263, 266-67 (4th Cir. 1995); United States v. Jackson, 563 F.2d 1145, 1147 n.4 (4th Cir. 1977). Further, the record shows that Dowdell's subsequent guilty plea to reduced charges--entered after he was permitted to withdraw his original plea--was voluntary.

We thus affirm Dowdell's sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED